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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,373	06/26/2001	Bret P. O'Rourke	MS1-575US	1692
22801	7590	04/04/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			NAMAZI, MEHDI	
			ART UNIT	PAPER NUMBER
			2189	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,373	<b>Applicant(s)</b> O'ROURKE ET AL.	
	<b>Examiner</b> Mehdi Namazi	<b>Art Unit</b> 2189	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/18/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to amendment filed December 9, 2004.

#### ***Response to Arguments***

2. Applicant's arguments filed December 9, 2004 have been fully considered but they are not persuasive.

With respect to Applicant's arguments on page 10 that "Burns fails to disclose a set of cache policies that determine the operation of an apparatus as a cache server and/or an origin server." The examiner disagrees with this statement because: Burns teaches a policy manager 128 which defines and administers rules that determine how and which documents or resources are cached [Col. 10, Lines 48-61]; Rules or protocol or policies that the browser follows to supply the documents) [Col. 8, Lines 15-18]).

With respect to Applicant's arguments on pages 11, and 14 that "Burns fail to disclose an apparatus that can be configured as a cache server and an origin server." The Examiner disagrees with this statement because ISP 56 serves as a cache server when the requested data is not there and should be down loaded and as an origin server when the requested data is there and it is able to provide that to subscribers or clients (col. 8, lines 23-40).

With respect to Applicant's arguments on page 12 that "Burns fail to disclose identifying cache policies that are associated with the type of media content requested." The Examiner disagrees with this statement because when the local service provider 110 passes the target resources on to the requesting subscriber and may also cache

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the target resource in the cache 124 if the policy rules governing the cache are met (col. 8, lines 36-40).

### ***Claim Objections***

3. Claims 11, 13, 14, and 18 are objected to because of the following informalities:

As per claims 11, and 18, lines 10, and 1-2 respectively "redirecting the client" should be replaced with --redirecting the request for media from the client--. Appropriate correction is required.

Claims 12-14 are objected as being dependent upon an independent objected claim.

*Applicant  
is  
correct!*

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-11, and 13-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,991,306 (Burns et al).

As per claim 1, Burns teaches an apparatus (**Fig. 2 & Fig. 6**) comprising: a media serving engine to distribute media content [**(content server or web server 52 which stores and serves multimedia data over a distribution network 54) (col. 5, lines 64-66))**]; a cache engine coupled to the media serving engine, the cache engine

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to cache media content (*independent service provider (ISP) having a cache server connected to the distribution network 54 with a network connection 64; see fig. 2*); and a set of cache policies accessible by the cache engine to define operation of the cache engine (*including a policy manager 128 which defines and administers rules that determine how and which documents or resources are cached [Col. 10, Lines 48-61]; Rules or protocol or policies that the browser follows to supply the documents) [Col. 8, Lines 15-18]*), wherein the apparatus can be configured to operate as a cache server and an origin server based on the set of cache policies (*the independent service provider (ISP) having a cache server 72 and a continuous media server (CMS) 74 with the ISP being configured as a conventional database server* (i.e., local service providing server) *[Col. 6, Lines 56-60] or as point of presence (POP) server* (i.e., intermediate between subscribers 58 & 60 and network 54) *[Col. 6, Lines 35-45, policies are set by a policy manager 128 which defines and administers rules that determine how and which documents or resources are cached [Col. 10, Lines 48-61]; Rules or protocol or policies that the browser follows to supply the documents) Col. 8, Lines 15-18] .*

As per claim 2, Burns teaches wherein the cache engine is configured to distribute stored data from a storage device to a plurality of clients **[(fig. 1 shows the distribution of stored data to subscribers)]**.

As per claim 3, Burns teaches the apparatus wherein the cache engine is configured to distribute cached media content to a plurality of clients (*the cache server*

**72 caching Internet resources for downloading to subscriber computers 58, 60) [Col. 6, Lines 61-65; Col. 4, Lines 48-50].**

As per claim 4, burns teaches the apparatus includes a data communication interface coupled to the cache engine and the media serving engine (**network connection 64 interfacing the ISP to distribution network 54, with the ISP serving as an intermediary between the subscribers 58, 60 to the network 54 [Col. 6, Lines 35-46]**).

As per claim 5, Burns teaches the apparatus including a data communication interface coupled to allow the cache engine to retrieve media content from an origin server (**content server 52**) across a network (**network connection 64 interfacing the ISP to distribution network 54, with the ISP serving as an intermediary between the subscribers 58, 60 to the network 54 [Col. 6, Lines 35-46]**).

As per claim 6, Burns teaches the apparatus including a communication interface coupled to allow the media serving engine to distribute media content across a network (**network connection 64 interfacing the ISP to distribution network 54, with the ISP serving as an intermediary between the subscribers 58, 60 to the network 54 [Col. 6, Lines 35-46]**).

As per claim 7, Burns teaches the apparatus being a Windows Media Server (**example of Microsoft Windows, WEB based server**) Col. 8, Lines 7-15].

As per claims 8, 16, and 22, Burns teaches the apparatus wherein the cache policies include policies for distributing media content from the apparatus (**Rules or**

***protocol or policies that define how and what documents to supply) [Col. 8, Lines 15-18; Col. 6, Lines 18-19].***

As per claim 9, Burns teaches the apparatus wherein the cache policies include policies for handling cache misses (***protocols to communicate the request to appropriate content server if cache miss the ISP) [Col. 8, lines 33-40; Col. 7, Line 61 to Col. 8, Line 4].***

As per claim 10, Burns teaches the apparatus including policies for prefetching media content (***rules or policies including downloading prior to peak time) [Col. 7, Lines 47-65; Col. 10, Lines 42-47].***

As per claims 11, 14, 20, and 21, Burns the apparatus implementing method executed by one or more processors (***processing control unit in ISP (independent service provider) 56, Fig. 2)*** to cause the one or more processors to: receive a request for media content from a client (***receiving requests for media content by the ISP)***, wherein the request is received by a cache server (***the independent service provider (ISP) having a cache server 72 and a continuous media server (CMS) 74)*** identifying cache policies associated with a type of media content requested [***when the local service provider 110 passes the target resources on to the requesting subscriber and may also cache the target resource in the cache 124 if the policy rules governing the cache are met (col. 8, lines 36-40)]***]; determining whether the requested media content is stored by the cache server (***first looking into own cache to determine if proxy copy is stored locally [Col. 8, Lines 23-26)]***]; provide the requested media content to the client if the requested media content is stored by the

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cache server **(if stored locally, locally serving target resource [Col. 8, Lines 31-33])**; and redirect the client to an origin server containing the requested media content if the requested media content is not stored by the cache server **(communicating the request to appropriate content server if request misses locally) [Col. 8, lines 33-40; Col. 7, Line 61 to Col. 8, Line 4]**.

As per claims 15, Burns teaches a method comprising: receiving a request for media content from a client **(receiving requests for media content by the ISP (independent service provider) 56, Fig. 2)**, wherein the request is received by a cache server capable of functioning as an origin server and a cache server **(the independent service provider (ISP) having a cache server 72 and a continuous media server (CMS) 74 with the ISP being configured as a conventional database server (i.e., local service providing server) [Col. 6, Lines 56-60] or as point of presence (POP) server (i.e., intermediate between subscribers 58 & 60 and network 54) [Col. 6, Lines 35-45]**; processing the request for media content according to a set of cache policies **(Rules or protocol or policies that define how and what documents to supply) [Col. 8, Lines 15-18; Col. 6, Lines 18-19]** in the cache server if the cache server is functioning as a cache server **(if stored locally, locally serving target resource [Col. 8, Lines 31-33])**; and providing the requested media content to the client if the cache server is functioning as an origin server **(communicating the request to appropriate content server if request misses locally) [Col. 8, lines 33-40; Col. 7, Line 61 to Col. 8, Line 4]** and the cache server contains the requested media content **(caching the requested media content [Col. 7, Lines 61 to Col. 8, Line 4])**.

As per claim 13, Burns teaches the method including determining whether the media server receiving the request for media content is functioning as a cache server or an origin server **(the independent service provider (ISP) being configured as a conventional database server** (i.e., local service providing server) **[Col. 6, Lines 56-60] or as point of presence (POP) server** (i.e., intermediate between subscribers 58 & 60 and network 54) **[Col. 6, Lines 35-45]**.

As per claims 17 and 23, Burns teaches the method wherein the set of cache policies includes policies for storing media content on the cache server **(Rules or protocol or policies that define how and what documents to supply)** **[Col. 8, Lines 15-18; Col. 6, Lines 18-19]**.

As per claims 18 and 24, Burns teaches the method including redirecting the client to an origin server if the cache server is functioning as an origin server and the cache server does not contain the requested media content **(if stored locally, locally serving target resource and communicating the request to appropriate content server if request misses locally)** **[Col. 8, lines 31-40; Col. 7, Line 61 to Col. 8, Line 4]**.

As per claims 19 and 25, Burns teaches the method including downloading the requested media content from an origin server if the server is functioning as an origin server and the cache server does not contain the requested media content **(communicating the request to appropriate content server if request misses locally)** **[Col. 8, lines 33-40; Col. 7, Line 61 to Col. 8, Line 4]**.

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehdi Namazi whose telephone number is 571-272-4209. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 571-272-4210. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mehdi Namazi  
Patent Examiner

Mano Padmanabhan  
7/1/05

**MANO PADMANABHAN  
SUPERVISORY PATENT EXAMINER**